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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,813	04/20/2004	Rolf Bruck	E-80502	7276

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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER

PHAM, MINH CHAU THI

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/828,813	Applicant(s) BRUCK ET AL.	
	Examiner Minh-Chau T. Pham	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-24 and 30 are again rejected under 35 U.S.C. 103(a) as being unpatentable over the European Patent (EP 0134002A1), in view of Dias et al (5,474,587).

The European reference discloses a heat resistant filter layer for a diesel exhaust filter comprising a material (3) being at least partially pervious to a fluid (see Abstract), at least one filter section (111) of heat and corrosion resistant material metal (see Abstract), and the layers being stacked to form a gas-permeable packet wherein the layers are connected to one another by brazing or welding in at least one connecting section (see 19 in Fig. 9). The European reference further discloses the filter body having passages alternately closed off (see details for Fig. 9). Claims 1-24 and 30 differ from the disclosure of the European reference in that the boundary region having a first layer thickness being different than a second layer thickness of the filter section. Dias et al disclose a diesel-soot filtering element (col. 1, lines 15-17) having a porous fluid permeable body (line 1 of Abstract, col. 3, lines 13-15), a filter sections, a boundary region extending from the filter section wherein the boundary region has a first layer thickness (o38 in Fig. 1) is different from the second layer thickness (o46 in Fig. 1), and the thickness has a variety of dimensions (see o38, o46 and o56 in Fig. 1, col. 3, lines 22-25). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a filter with the boundary region in different

thickness as taught by Dias et al in the apparatus of the European reference to provide a seal accommodating space so as to prevent fracturing of the filter material while allowing sufficient expansion of the filter housing with heat.

As to the numerical thickness requirements, i. e. "at most 3mm" of claim 4 and so on, the specification contains no disclosure of either the critical nature of these requirements or any unexpected results arising therefrom, and as such these requirements would be arbitrary and therefore obvious. Applicants **must** show that these requirements are critical. *In re Woodruff, 16 USPQ 2d 1934.*

Response to Arguments

Applicant's arguments filed on December 12, 2005 have been fully considered but they are not persuasive.

Applicant argues that the secondary reference Dias et al "fails to disclose that the boundary region has a first layer thickness being different than a second layer thickness of the filter section". The Examiner respectfully disagrees. Dias et al clearly disclose a filter section (the middle part) has two boundary regions (far left and far right), each on each side and the first layer thickness (one side) being different than the second layer thickness (the opposite side) (see Fig. 1). Therefore, Dias et al does disclose a diesel-soot filtering element (col. 1, lines 15-17) having a porous fluid permeable body (line 1 of Abstract, col. 3, lines 13-15), a filter sections, a boundary region extending from the filter section wherein the boundary region has a first layer thickness (o38 in Fig. 1) is different from the second layer thickness (o46 in Fig. 1), and the thickness has a variety of dimensions (see o38, o46 and o56 in Fig. 1, col. 3, lines 22-25), as claimed. It would

have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a filter with the boundary region in different thickness as taught by Dias et al in the apparatus of the European reference to provide a seal accommodating space so as to prevent fracturing of the filter material while allowing sufficient expansion of the filter housing with heat.

Applicant's arguments with respect to claims 1-24 and 30 have been thoroughly considered but are moot in view of the rejection, as discussed above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Minh-Chau Pham
Patent Examiner
Art Unit: 1724
February 27, 2006